

REPORT - PLANNING COMMISSION MEETING
September 12, 2002

Project Name and Number: Tentative Parcel Map 7792 (PLN2001-00316)

Applicant: Pradeep (Bob) Garg

Proposal: To consider Tentative Parcel Map 7792 to subdivide one parcel into three single-family residential lots.

Recommended Action: Approve, based on findings and subject to conditions

Location: 835 Yakima Drive in the Warm Springs Planning Area.

Assessor Parcel Number: 519-1661-013-00

Area: 2.26 acres

Owner: Pradeep (Bob) Garg

Agent of Applicant: Chuck Ludwig, Engineer, Fremont Engineers, Inc.

Consultant(s): Chuck Ludwig, Engineer, Fremont Engineers, Inc.

Environmental Review: An Initial Study and Mitigated Negative Declaration were prepared for this project.

Existing General Plan: Low Density Residential, 3-5 dwelling units per acre.

Existing Zoning: Single Family Residential, Hillside Combining District, R-1-10 (H-I).

Existing Land Use: One single family dwelling.

Public Hearing Notice: Public hearing notification is applicable. A total of 16 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Aloe Court, Yakima Drive, Wooded Hills Court, and Windmill Court. The notices to owners and occupants were mailed on August 30, 2002. A Public Hearing Notice was delivered to The Argus on August 28, 2002 to be published by August 30, 2002.

In addition, a Notice of Preparation of a Draft Mitigated Negative Declaration was delivered to The Argus on August 6, 2002.

Background and Previous Actions: On August 16, 1977, the City Council approved Final Tract Map 3723 creating 39 lots commonly known as Glenmoor Hills.

The subject parcel contained a slope easement, created in 1971, for the purpose of constructing East Warren Avenue between I-680 and Curtner Road. On November 6, 2001, the City Council adopted Resolution 9716, summarily vacating a portion of that slope easement on the subject property at 835 Yakima Drive. The remaining portion of the slope easement is located at the southwest of the property, as shown on Exhibit "A" and Informational Item 2 (sheet 1).

The parcel also contains a private Open Space Easement was created with Tract Map 3723 in 1977. The Open Space dedication relinquished the right to construct "buildings for human habitation without the approval of a certified engineering geologist ..." The geotechnical report entitled "Additional Geologic Faulting Investigation Including Evaluation of Slope Stability" (dated April 29, 2002, by Geotechnical Engineering, Inc.) conducted for this project concluded that buildings could be constructed in the open space area of the original parcel and therefore the condition for the open space

easement has been met and is no longer applicable for the subject property. The easement will be removed by a note recorded on the final map.

Project Description: The proposed project is for the subdivision of a 2.26 acre lot containing an existing single family home into 3 new parcels. The lot area for Parcel 1, which is currently vacant, will be 21,228 square feet. Parcel 2 is also currently vacant and is proposed at 13, 509 square feet. Parcel 3, which contains an existing residence, will be 61,895 square feet.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Low Density Residential, 3-5 dwelling units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because it would result in an increase of the development density from 0.45 dwelling units per acre to 1.36 dwelling units per acre.
- **Zoning Regulations:** The project site is zoned Single Family Residential, Hillside Combining District, R-1-10 (H-I).

Setbacks--The R-1-10 building setbacks are a 25-foot front yard setback, 30-foot rear yard setback, and the following side yard setbacks: for one-story structures, one side 8 feet, total for both sides 20 feet; for two story structures, one side 10 feet, total for both sides 20 feet. The existing home on the proposed Parcel 3 will conform to the required setbacks for the zoning district. Based on the required setbacks, the areas of constrained land (slopes of 30% or greater), and the existing slope easement across the property, the buildable areas for Parcel 1 and 2 are shown on Informational Item 2 (sheet 2).

Parcel 1 contains two "pockets" of constrained lands with slopes of 30% or greater. Staff believes that these areas may have resulted from past grading in the area and may not be natural slopes. Should the site be found to have a natural slope in excess of 30%, that area would normally be considered constrained and the buildable area shown on Informational Item 2, sheet 2 may not apply. The buildable area map is an informational item only and is not part of the subdivision approval given by the Planning Commission. Regardless of whether the two 30% slope pockets are constrained, there is sufficient unconstrained lot area to develop a large home. Staff recommends that at the time of proposed development, the applicant will submit a more detailed site survey and grading proposal for staff review to determine whether or not development will be permitted on lands with slopes in excess of 30%. It should be noted that if the area is found to be small and an anomaly on the site, staff may allow grading which would reduce the slope to under 30%, thereby making a greater site area available for development, should that result in a better site plan and development of the lot.

Lot Size— The minimum lot size for the R-1-10 zoning district is 10,000 square feet. The proposed lot dimensions and lot sizes of the 3 proposed parcels conform to the zoning district requirements. The three proposed lots, at 21,228 square feet (Parcel 1), 13, 509 square feet (Parcel 2), and 61, 895 square feet (Parcel 3) are compatible with the lot sizes of adjacent properties. Parcels 1 and 2 also comply with the increased Lot width and Lot area requirements for properties within the Hillside Combining District (H-I). The average lot sizes on Aloe Court and along the north side of Yakima Drive are approximately 20,000 square feet and the lots of the south side of Yakima Drive are approximately 1 acre in size. However, it should be noted that a private open space easement exists on those parcels, reducing the buildable area on those lots until further geotechnical investigation is conducted. Relative to the buildable area of properties on the south side of Yakima Drive, the proposed lots will be compatible with the existing neighborhood. No development on Parcel 1 or 2 is being proposed at this time.

- **Open Space:** A private open space easement exists across the southwest portion of the three proposed lots, as shown on Informational Item 2 (sheet 1). This open space easement was established with Tract Map 3723 in 1977. The Open Space dedication relinquished the right to construct "buildings for human habitation without the approval of a certified engineering geologist ..." The geotechnical studies and trenching

conducted for this project concluded that buildings could be constructed in the open space area of the original parcel and therefore the condition for the open space easement has been met and is no longer applicable for the subject property. The easement will be removed by a note on the final map. The proposed tentative map also includes a thirty-foot wetband where open space is adjacent to property lines, and is indicated on the proposed parcel map.

- **Circulation/Access Analysis:** Access to all three lots will be from Yakima Drive, an existing, improved public street. Access from East Warren Ave is essentially excluded by the location of the slope easement on the property and constrained lands on Parcel 1.

Grading & Drainage: A grading plan for the site will be required at the time of building permit application to determine whether the existing and/or proposed grading is in compliance with the requirements for grading and erosion control as set forth in the Grading Ordinance.

Geology/Soils: A geotechnical report entitled "Additional Geologic Faulting Investigation Including Evaluation of Slope Stability" dated April 29, 2002, by Geotechnical Engineering, Inc. was prepared for this project. The recommendations made in that report are included as mitigation measures and conditions of approval.

Urban Runoff Clean Water Program: The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval will be included for the grading plan at the time of building permit application to reflect this requirement.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park land dedication-in-lieu, park facilities, capital facilities and traffic impact. These shall be calculated at the fee rates in effect at the time of building permit issuance.

Environmental Analysis: An Initial Study and Draft Mitigated Negative Declaration, has been prepared for this project. The environmental analysis identified concerns regarding potential impacts to air quality, noise, geology/soils and hydrology/water quality. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration and Mitigation Monitoring Plan have been prepared for consideration by the Planning Commission. The Initial Study and Draft Mitigated Negative Declaration have been modified slightly to include additional mitigation measures. The additional mitigation measures do not constitute new information under CEQA section 15162.

The following mitigation measures are associated with the project:

1. To mitigate the identified air quality impacts of grading and construction, the project will incorporate dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil and similar materials shall be covered with a tarp. Trucks hauling dirt or debris shall be covered to avoid spillage. Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust. A person will be designated to oversee the implementation of the dust control program. During construction, streets adjacent to the project site that are used by construction vehicles shall be swept periodically to reduce dust. Implementation of the above-stated mitigation measures will reduce the identified air quality impacts to a non-significant level.

2. Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.
3. To mitigate the geotechnical issues on the site, the following mitigation measures are required conditions of approval for Tentative Parcel Map 7792:
 - a. A Slope Stabilization Plan shall be prepared, approved and implemented prior to approval of issuance of a building permit on the two vacant parcels. The entire toe of slope along East Warren Avenue should be stabilized by over-excavation, and construction of keyways and subdrains.
 - b. Existing exploratory trenches on all three parcels shall be properly backfilled and compacted. All work shall be completed prior to issuance of building permits.
 - c. Future development on Parcel 3 shall be limited to the area northeast of the existing improvements or supplemental detailed geotechnical investigations shall be completed to demonstrate slope stability of proposed construction areas. Any investigation completed to support the feasibility of construction west of the existing improvements should be reviewed and approved by the City Geotechnical Consultant prior to issuance of any building permit.
 - d. Detailed, site specific geotechnical investigations shall be completed for each individual lot prior to issuance of any building permit. Said investigation shall address in detail the engineering properties of potentially expansive earth materials, and appropriate geotechnical engineering design mitigation to address shrink-swell properties of soil and bedrock.
4. Standard water pollution and erosion control measures following Best Management Practices will be implemented to prevent storm water runoff pollution. Emphasizing storm water Best Management Practices (BMP) intends to achieve compliance with the goals of the **Alameda County Urban Storm Water Runoff Program**, in conformance with the Federal National Pollutant Discharge Elimination System (NPDES) program established by the Clean Water Act.
5. Construction hours will be limited by conditions of approval and no construction will be allowed on Sundays. Construction activities shall be limited to the following hours of operation: 7 a.m. to 7 p.m. Monday through Friday; 9 a.m. to 6 p.m. Saturday.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Response from Agencies and Organizations: None

Enclosures: Exhibit "A" (Tentative Parcel Map 7792)
 Exhibit "B" (Findings & Conditions of Approval for TPM 7792)
 Informational Item 1 (Initial Study, Draft Mitigated Negative Declaration, Mitigation Monitoring Plan)
 Informational Item 2 (Easement Location Map, Buildable Area Analysis)

Exhibits: Exhibit "A" (Tentative Parcel Map 7792)
 Exhibit "B" (Findings & Conditions of Approval for TPM 7792)
 Informational Item 1 (Initial Study, Draft Mitigated Negative Declaration, Mitigation Monitoring Plan)
 Informational Item 2 (Easement Location Map, Buildable Area Analysis)

Recommended Actions:

1. Hold public hearing.
2. Find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan and find it reflects the independent judgement of the City of Fremont.
4. Find PLN2001-00316 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan as enumerated within the staff report.
5. Approve PLN2001-00316, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

EXHIBIT "B"
Findings and Conditions of Approval for
PLN2001-00316 TENTATIVE PARCEL MAP 7792 (TPM-7792)

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated September 12, 2002, incorporated hereby.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plans since the proposed lot configuration is in conformance with the **Low Density Residential (3-5 units per acre)** requirements of the General Plan.
3. The site is physically suitable for the type and proposed density of the development since the proposed lot configuration is in conformance with the **Single Family Residential [R-1-10(H-I)]** requirements of the Zoning Ordinance.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the project will be an infill project within an existing single-family neighborhood.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems since the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision because they have been abandoned as unnecessary. Acquisition of any new easements is required prior to final parcel map approval.

CONDITIONS:

1. Conformance with staff amended Exhibit "A", attached hereto and made a part hereof.
2. This Tentative Parcel Map (TPM) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the TPM application. If any of the information is shown to be inaccurate subsequent to approval of the TPM by the City, such inaccuracy may be cause for invalidating this approval.
3. Only one final Parcel Map is allowed to accomplish the lot splits proposed by this vesting tentative parcel map.
4. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.
5. A Slope Stabilization Plan shall be prepared, approved and implemented prior to approval of issuance of a building permit on the two vacant parcels. The entire toe of slope along East Warren Avenue should be stabilized by over-excavation, and construction of keyways and subdrains as recommended in the project geotechnical report

entitled "Additional Geologic Faulting Investigation Including Evaluation of Slope Stability" dated April 29, 2002, by Geotechnical Engineering, Inc..

6. Existing exploratory trenches on all three parcels shall be properly backfilled and compacted consistent with the recommendations in the project geotechnical report entitled "Additional Geologic Faulting Investigation Including Evaluation of Slope Stability" dated April 29, 2002, by Geotechnical Engineering, Inc. All work shall be completed prior to issuance of building permits.
7. Future development on Parcel 3 shall be limited to the area northeast of the existing improvements or supplemental detailed geotechnical investigations shall be completed to demonstrate slope stability of proposed construction areas. Any investigation completed to support the feasibility of construction west of the existing improvements should be reviewed and approved by the City Geotechnical Consultant prior to issuance of any building permit.
8. Detailed, site specific geotechnical investigations shall be completed for each individual lot prior to issuance of any building permit. Said investigation shall address in detail the engineering properties of potentially expansive earth materials, and appropriate geotechnical engineering design mitigation to address shrink-swell properties of soil and bedrock.
9. Utility service connections, including electrical and communications, shall be installed underground. All existing overhead utility lines within the site and across the site's frontages shall be undergrounded by the developer in conformance with the City's Underground Ordinance.
10. Review of the tentative map by the Fire Department relative to local and State Fire Code is based on the material submitted. Therefore, if the map is revised prior to final submittal, the Fire Marshal should be contacted so that any changes may be properly reviewed and evaluated. The on-site and/or off-site fire hydrants were required, as per tentative parcel map annotations, in accordance with Fremont Fire Code Article No. 13.
11. Removal of existing trees over four inches in diameter, excluding nut-bearing and fruit-bearing trees except for olive trees and walnut trees, shall be subject to the approval of the Senior Landscape Architect for the City. The precise location of such existing trees shall be shown on the site plan and/or landscape plan at the time of building permit application.
12. The subdivider is required to provide a cash payment to the City of Fremont for microfilming the recorded parcel map. The subdivider is also required by ordinance to provide the City with a mylar copy of the recorded parcel map subsequent to its recordation.
13. Provide a letter from Alameda County Water District giving the location and sealing specifications for all water wells within the subdivision boundary. If there are no wells, a letter so stating must be provided.
14. An existing concrete walkway encroaches across Parcel 2 from Parcel 3. This walkway should be removed prior to or in conjunction with the approval of the final parcel map.
15. Any development on this site will be subject to City wide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park land dedication-in-lieu, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit approval.
16. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall indemnify and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City of Fremont, advisory agency appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

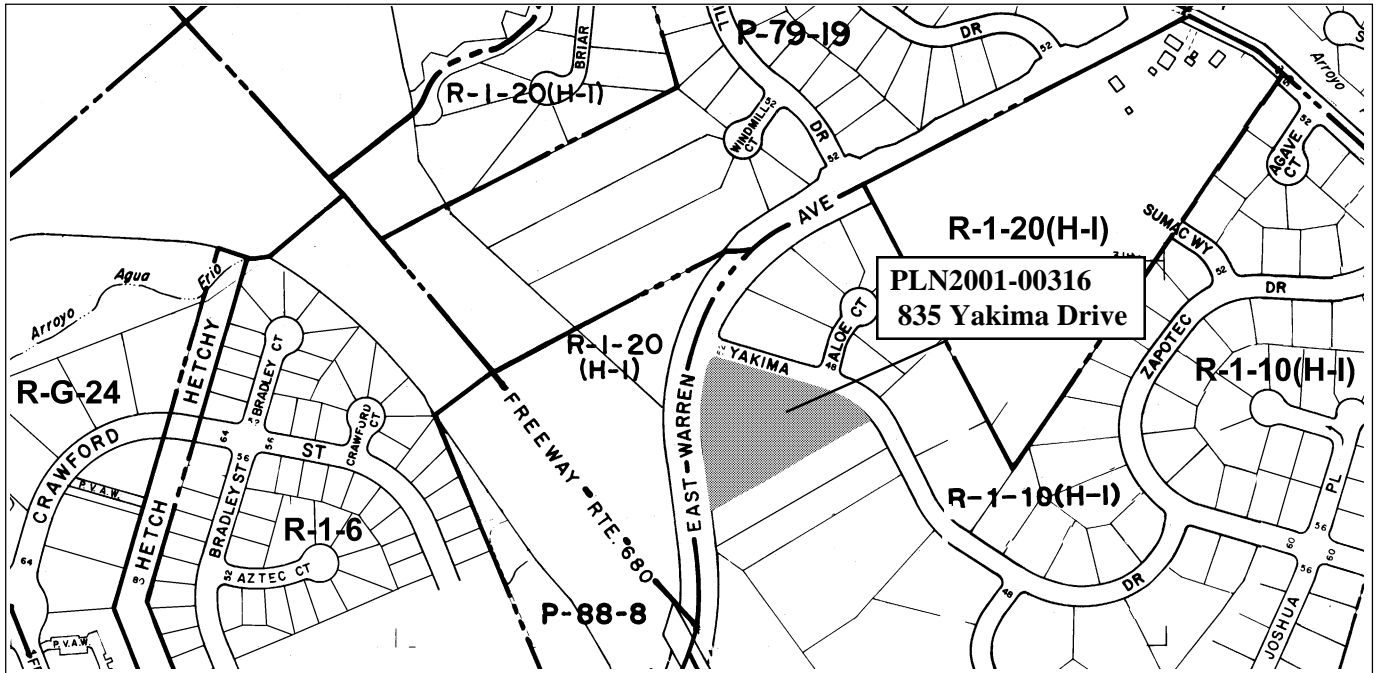
The City of Fremont shall promptly notify the subdivider of any claim, action, or proceeding to attack, set aside, void or annul its approval and shall cooperate fully in the defense.

SUBDIVIDER PLEASE NOTE :

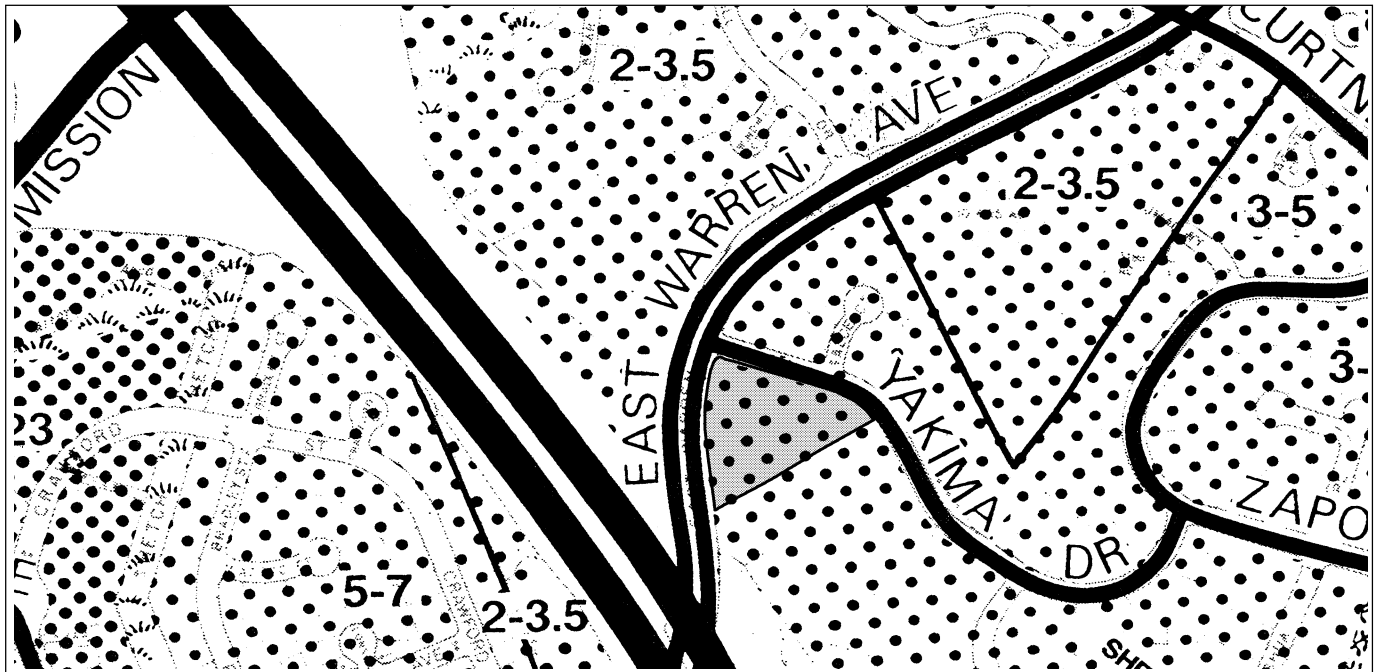
The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative parcel map approval. Any fee, dedication, reservation or other exaction shall be only those in effect on the date of this tentative parcel map approval (9/12/02). The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative parcel map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

tpm-7792.cnd

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number: PLN2001-00316 (TPM 7792)
Project Name: Tentative Parcel Map 7792
Project Description: To consider Tentative Parcel Map 7792 for 3 single-family residential lots on 2.2 acres located in the Warm Springs Planning Area.

Note: Prior arrangements for access are not required for this site.

